

REMARKS

The Office examined claims 1-20 and rejected same, based on various grounds, including an "updated" rejection under 35 USC section 103. With this paper reconsideration is requested.

Claim rejections under 35 USC §101

The Office repeats the rejections of claims 1-20 under 35 USC section 101 without responding to applicant's traversal thereof. Applicant respectfully requests that the Office either provide a response to the arguments made by applicant in respect to the rejections under 35 USC section 101 or withdraw the rejections.

Claim rejections under 35 USC §112

Claims 1-20 are rejected under 35 USC section 112 because of supposed indefiniteness in claims 1 and 11, the only independent claims of the application. In particular, first the Examiner asserts that in the "and at least some of which" recitation at lines 6-9 it is unclear what is referred to by "which."

Applicant respectfully points out that the claim recites:

a knowledge base, for maintaining a generic risk record including a plurality of fields at least some of which have subjective or quantitative values for risk, with the subjective values synchronized to numerical values, and at least some of which have been determined as an average of corresponding subjective or quantitative risk values in completed projects or processes; [Emphasis added]

The Office is evidently sure of what is referred to by the first "some of which" recitation. Applicant respectfully submits that the second "which" obviously refers to the same antecedent, the fields of the generic risk record, in view of the recited "and" conjunction. Nevertheless, applicant is amenable to the Examiner amending claims 1 and 11 to recite "and at least some of which fields"

Next the Examiner asserts that "an average of corresponding subjective or quantitative risk values" recited in claims 1 and 11 is unclear. The subject language is, in full context (as above):

a knowledge base, for maintaining a generic risk record including a plurality of fields at least some of which have subjective or quantitative values for risk, with the subjective values synchronized to numerical values, and at least some of which have been determined as an average of corresponding subjective or quantitative risk values in completed projects or processes; [Emphasis added]

Applicant respectfully submits that, as supposed by the Examiner, the subject language clearly means that the generic risk record includes at least one field for a risk value holding a value that is an average of risk values for the same risk in completed projects or processes. The risk values in the completed projects/ processes are recited as "corresponding" to make clear that they are values for the same risk as that of the generic risk record. For example, the generic risk record might have a field for the risk that the cost of labor will not increase for at least two months. The risks in the completed projects or processes that are averaged together to come up with the value in the generic risk record would all be for that same risk, and so would all be "corresponding." If the Examiner prefers, applicant is amenable to an Examiner's amendment eliminating the word "corresponding."

Applicant respectfully requests that all rejections under 35 USC §112 second paragraph be reconsidered and withdrawn for the reasons given for claims 1 and 11.

Claim rejections under 35 USC §103

The Office rejects claims 1-2 and 4, 9-12, 14 and 19-20 under 35 USC §103 as being unpatentable over Mulholland. The Office characterizes the rejection here as being "on new grounds"

in that the rejection is "updated" in view of applicant's arguments that Mulholland does not teach:

two data stores, nor the updating of one data store based on values in the other;

the updating of one data store based on another, or the updating of generic risk records based on a profile risk record;

an averaging process as part of the updating process.

(Applicant notes that the Examiner asserts that only one data store is claimed, but claim 1 recites "a knowledge base" (for holding the generic risk records, i.e. for storing records, i.e. serving as a first data store) and a "data store of profiles" (for holding the profile/ actual project risk records). That makes two data stores.)

For the averaging recited in claims 1 and 11, the Office relies on Official notice. Applicant respectfully submits that it is not consistent for the Examiner to assert on the one hand that Mulholland teaches the invention except in respect to the averaging, and then assert that the averaging is, by Official notice, of no patentable weight. Surely if Mulholland actually disclosed the invention there would be some indication of some kind of averaging as recited in the claims.

The claims now recite averaging only in order to more clearly distinguish over Mulholland, since the Office seems inclined to interpret the invention as otherwise claimed so broadly as to encompass the teachings of Mulholland. In other words, applicant is not relying on "just averaging" to distinguish from Mulholland. Applicant had argued that Mulholland cannot fairly be said to teach the invention according to a fair reading of the claims without the averaging limitation, and amended the claims to recite same only in order to confine

the Office in its claim construction to subject matter applicant actually regards as the invention.

Applicant had argued that, irrespective of the averaging, Mulholland does not teach a system including a risk processor that updates a body of risk information including quantitative risk information based on risk information in a particular project. In response the Examiner argues that a PC executing the Hypercard and Excel are such a risk processor, "since said processor is used to process risk data." The Examiner argues that the disclosed sensitivity analysis varies "one certain element at a time, thereby updating the body of risk information for a particular project using a risk processor." Applicant respectfully points out that the claim requires that the alleged "updating" relied on, i.e. the variation of one parameter at a time in order to perform a sensitivity analysis, can in no way be equated to updating a body of risk information including quantitative risk information based on risk information in a particular project. In a sensitivity analysis, the variation of one parameter at a time is done to see what outcome results, e.g. how much more does the project cost, or how much longer does it take. It is therefore distinguished from the updating recited in claim 1 in two respects: 1) it is purely hypothetical, i.e. it is a "what if" question, and so is not based on risk information in a particular project; and 2) it is for a particular project, not a body of risk information, and so cannot be said to result in the updating of a body of risk information, as required by the invention as claimed, let alone the averaging required by all the claims of the application.

Applicant then, nonetheless, amended claims 1 and 11 to inform the claim language in respect to the updating. Just to remind the Examiner, the updating recited in the claims is where a template risk record for a particular kind of project has values for a risk that are refined over time by the risk

processor taking into values for the risk determined in actual projects. The updating is now recited as an averaging of each new risk value with the average risk value already on file. The result is a refined risk value. Mulholland does not teach or suggest this kind of updating, or anything like it, which is why there is nothing the Office can point to in Mulholland as teaching or suggesting the recited averaging. If Mulholland really does teach the invention except for the averaging, then Mulholland would surely have something the Office could point to as suggesting the averaging, since the averaging lies at the heart of the invention.

Applicant respectfully requests that the Examiner provide actual prior art teaching two data stores, one holding data for particular projects, and one holding an average of such data, as minimally required by claims 1 and 11.

Without such, applicant respectfully requests that the rejections of the claims based on Mulholland be withdrawn.

Conclusion

For all the foregoing reasons it is believed that all of the claims of the application are now in condition for allowance, and their passage to issue is earnestly solicited. *Applicant's attorney urges the Examiner to call to discuss the present response if anything in the present response is unclear or unpersuasive.*

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Date

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